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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,922	09/22/2003	Robert Edward Gott	J6834(C)	9900

201 7590 05/12/2010

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EXAMINER	
KWON, BRIAN YONG S	

ART UNIT	PAPER NUMBER
1614	

NOTIFICATION DATE	DELIVERY MODE
05/12/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Office Action Summary	Application No.	Applicant(s)	
	10/667,922	GOTT ET AL.	
	Examiner	Art Unit	
	Brian-Yong S. Kwon	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 8-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 8-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The examiner for the instant application has changed. The current examiner assigned to this application is Brian-Yong S. Kwon. Claims 1-6 and 8-21 are presented for examination.

Status of Application

2. Acknowledgement is made of a Brief on appellant's Appeal, filed on 03/27/2009, from the examiner's Final Rejection mailed on 01/26/2009.

3. Appellant's arguments with respect to claims 1-6 and 8-21 have been considered but are moot in view of the new ground(s) of rejection. Accordingly, the **Finality** of O.A. mailed January 26, 2009 is hereby **withdrawn.**

4. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set of actions being applied to the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-4, 8-9, 10-12, 14 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Ribble et al. (US 2004/0048759).

Ribble discloses an extruded foam cleansing product comprising a water soluble disintegrant, a natural starch, a soap base, a nucleating agent, a water soluble thermoplastic polymer and a blowing agent and further comprising destructurized starch (e.g., maize starch) and additives such as fragrances (para. [0056]; Example 5; claims 21-36), wherein the water soluble disintegrant is present from about 20% to about 65% (para.[0012] and [0041]); the soap base, for example a fatty acid soap or other types of surfactant detergents, such as synthetic detergents, are present between about 10% to about 30% (para. [0014], the foamed product can be formed into any desired shape, for example a flat sheet of extrudate, including stars, moons, suns, animals, three dimensional shapes such as spheres, cylindrical rod, etc…(para. [0037] and Figure 2); the destructured starch, which is composed essentially of amylose and/or amylopectin, is present up to about 25% (para. [0050]-[0052]); and the fragrance is present up to about 5% (para. [0056]). Ribble also discloses that "the starch can be extracted from any suitable plant, such as, for instance, potatoes, rice, maize, tapioca…" (para. [0050]).

With respect to "a zea mays starch" (which is commonly known as corn starch) recited in claim 2, the examiner determines that one of ordinary skill in the art would "at once envisage" the subject matter because Ribble lists maize (corn) as suitable source of destructurized starch. When the species within a genus is clearly named, the species claim is anticipated no matter how many other species are additionally named.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6 and 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ribble et al. (US 2004/0048759), and further in view of Bond et al. (US 2003/0091822 A1) and/or Schmid et al. (US 5480923).

The teaching of Ribble has been discussed in above 35 USC 102(e) rejection.

Bond is being provided as a supplemental reference to demonstrate the routine knowledge in using corn starch as a natural source of starch in making destructurized starch because of their economy and availability (para. [0035]).

Schmid is being provided as a supplemental reference to demonstrate the routine knowledge in using at least 50%, preferably at least 65%, of amylose to provide good or extrusion or performance properties (column 2, lines 41-56; column 6, line 61 through column 7, line 2).

With respect to selection of zea mays starch recited in claim 2,

Alternatively, assuming arguendo that Ribble cannot be said to anticipate claim 2 to "a zea mays starch", the examiner determines that such selection of "a zea mays starch" (which is commonly known as corn starch) within the genus is considered obvious task for the skilled artisan under the meanings of 35 USC 103(a).

One of ordinary skill in the art would have motivated to select zea mays starch (which is commonly known as corn starch) as a source of the destructurized starch in the composition disclosed Ribble because of their economy and easy availability.

With respect to the specific amounts of amylase content recited in claims 13, 15 and 17, such determination of amylase concentration involving each of the above mentioned formulations would have been routinely made by those of ordinary skill in the art and is within the ability of tasks routinely performed by them without undue experimentation.

One having ordinary skill in the art would have been motivated to modify the teaching of the Ribble to provide good or extrusion or performance properties. One would have been motivated to combine these references and make the modification because they are drawn to same technical fields (constituted with same ingredients and share common utilities), and pertinent to the problem which applicant concerns about. MPEP 2141.01(a).

With respect to optimization of amounts of the destructurized starch recited in claims 20-21, such determination of the destructurized starch concentration involving each of the above mentioned formulations would have been routinely made by those of ordinary skill in the art and is within the ability of tasks routinely performed by them without undue experimentation.

Generally, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such particle distribution concentration is critical. Where the general conditions of a claim are disclosed in the prior art, it not inventive to discover the optimum or workable concentration by routine experimentation.

Applicant has presented no evidence to establish the unexpected or unobvious nature of the claimed invention, and as such, claims 1-6 and 8-21 are properly rejected under 35 U.S.C. 103.

With respect to honeycomb shape recited in claims 5-6, although the Ribble does not specifically disclose honeycomb shape, one having ordinary skill in the art would

have expected at the time of the invention was made that forming of any desired shape including honeycomb shape would have been characteristic of the modified prior art method. Generally, differences in shape will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such honeycomb shape is critical. Where the general conditions of a claim are disclosed in the prior art, it not inventive to discover the optimum or workable shape by routine experimentation.

Conclusion

7. No Claim is allowed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax number for this Group is (571) 273-8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications may be obtained from Private PAIR only. For

more information about PAIR system, see http://pair-direct.uspto.gov Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/Brian-Yong S Kwon/
Primary Examiner, Art Unit 1614